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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/603,594 | 06/26/2003 | Juergen Fahrenbach | 080408.52425US | 2995 |
| 23911 | 7590 | 12/07/2004 | EXAMINER | |
| CROWELL & MORING LLP INTELLECTUAL PROPERTY GROUP P.O. BOX 14300 WASHINGTON, DC 20044-4300 | | | NGUYEN, JIMMY T | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3725 | |

DATE MAILED: 12/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|-----------------|---------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/603,594 | FAHRENBACH, JUERGEN |
| Examiner | Art Unit | |
| Jimmy T Nguyen | 3725 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 6/26/03.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-18 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-6 and 9-17 is/are rejected.
 7) Claim(s) 7,8 and 18 is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 23 June 2003 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>06262003</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “a pressure element acts directly upon a fluid” (claim 1, lines 5-7); “the pressure element in a small eye of the rod” (claim 2, line 2); “the pressure piston has a substantially oval cross section” (claim 6, line 2); “connecting elements” (claim 8, line 2); “an air pump” (claim 11, line 2); “several slides, connecting rods with overload safety devices” (claim 18) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified

and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The specification is objected to under 37 CFR 1.71 as not clearly describing the subject matter. Page 4, the first 3 lines of paragraph 16 disclose that the pressure element can also be arranged in the small eye of the connecting rod. It is unclear how the small eye of the rod can accommodate the pressure element, the drive shaft, and be able to carry out an oscillating movement if the slide.

Claim Objections

Claim 18 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only. See MPEP § 608.01(n). Accordingly, the claim 18 not been further treated on the merits.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 3 and 15 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement.

Regarding claim 3, the claim contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The claim recites, "the pressure element is mounted in the one eye (small) of the connecting rod on which the drive shaft is mounted", the specification does not disclose how the combination of the drive shaft and the pressure element in the small eye enables an oscillating movement of the slide.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, line 1, it is unclear what elements comprising a driving device, the overload safety device or the press?

Regarding claim 1, line 4, it is unclear what having a large and a small eye. Examiner suggests --- said connecting rod having a large and a small eye ---.

Regarding claim 4, the limitation "the pressure element is configured to act upon a pressure piston which then acts upon the fluid" fails to further limit the subject matter as claimed in the preceding claim 1, which calls for "the pressure element acts directly upon the fluid" (emphasis added).

Regarding claim 5, line 2, it is unclear whether the limitation “an eye” is the same eye as claimed in the preceding claim 1. If it is, it is unclear of which eyes (large or small) applicant refers to. If it is not, the specification does not provide any support for the third eye.

Regarding claim 16, line 3, it is unclear what the term “at least one of” refers to. Additionally, it is unclear what structural interrelationship exists between a flywheel, a brake and other elements (i.e. the driving device, the connecting rod) as claimed in the preceding claim 1.

Regarding claim 17, the claim is rejected as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claims, or amend the claims to place the claims in proper dependent form. The claim calls for a press, which is improper depend on claim 1, which calls for a overload safety device. Additionally, it is unclear whether all of the elements (i.e. a drive shaft, a slide, a connecting rod,..) as claimed are the same elements of an overload safety device as claimed in claim 1. Examiner suggests that the claim should deleted the words “according to Claim 1” and properly recites all of the elements of the overload safety device/connecting rod and their structural interrelationship with other elements of the press.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 9, and 12-17, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Kleister et al. (hereinafter “Kleister”) (US 3,892,143).

Regarding claims 1, 13, 14, and 17, Kleister discloses an overload safety device in a press comprising a driving device having a drive shaft (1), a slide (9), and a connecting rod (2, 7) configured to connect the drive shaft with the slide. The connecting rod having a large eye (2a) and a small eye (5a), wherein the connecting rod has a pressure element (4) acts upon a hydraulic fluid (8), wherein when a force act upon the connecting rod and a predetermined pressure is exceed, the movement of the slide is interrupted (col. 3, lines 10-45).

Regarding claims 2 and 3, the pressure element is arranged in the large eye of the connecting rod on which the drive shaft is mounted (see fig. 1).

Regarding claim 4, the pressure element is configures to act upon a pressure piston (see an upper part of ref. (4) which then acts upon the fluid.

Regarding claim 5, the pressure piston is arranged in a cavity of the large eye and is sealed off via a sealing device (3).

Regarding claim 9, the pressure element having a restoring device (5) for moving the pressure element (col. 2, lines 57-59).

Regarding claim 12, the pressure element is arranged to be longitudinally displaceably guided with respect to the connecting rod via guide elements (Examiner interprets both sidewalls of the large eye as the guide elements for the pressure element).

Regarding claim 15, a bearing element (see a large circle around ref. (1) in fig. 1)).

Regarding claim 16, a pressure valve (17) is operatively with a safety valve (col. 3, lines 29-39) inherently acts upon a flywheel or a brake (col. 1, lines 30-38), which in turn acts upon the driving device.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6 and 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Kleister et al..

Regarding claim 6, Kleister discloses the pressure piston, Kleister does not disclose the pressure piston has an oval-shaped cross section. However, it would have been an obvious matter of design choice to have an oval-shaped cross section, since applicant has not disclosed that the oval-shaped cross section solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the shape of the cross section as disclosed by Kleister.

Regarding claims 10-11, Kleister discloses the restoring device is an adjustable spindle for moving the pressure element. Kleister does not disclose the specific type of restoring device as claimed (i.e. a spring element or an air pump). However, it would have been an obvious matter of design choice to use a spring element or an air pump to move the pressure element, since applicant has not disclosed that the use of spring element or air pump solves any stated problem

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or is for any particular purpose and it appears that the invention would perform equally well with the type of restoring device as discloses by Kleister.

Allowable Subject Matter

Claims 7-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art listed on the attached PTO 892 are cited to show overload protection system for mechanical presses.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jimmy T Nguyen whose telephone number is (571) 272-4520. The examiner can normally be reached on Mon-Thur 8:00am - 6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allen Ostrager can be reached on (571) 272- 4521. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JTNguyen
December 01, 2004


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